

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

GEORGE FRANCO,

Plaintiff,

v.

BANK OF AMERICA,

Defendant.

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CIVIL ACTION NO.

SA-08-CV-0475 FB (NN)

**ORDER CONCERNING SUPPLEMENTAL BRIEFING AND DENIAL OF REQUEST
TO COMPEL PRODUCTION (Docket entry 41)**

The purpose of this order is to set a deadline for supplemental briefing. On January 8, 2010, I determined that the summary-judgment evidence about when the plaintiff received his right-to-sue letter showed that this case is time-barred and recommended granting the defendant's motion for summary judgment.¹ Since that time, the district judge determined that the plaintiff raised a fact question about the date he received his right-to-sue letter and returned this case for consideration of the defendant's other summary-judgment arguments.

To ensure I have all of the parties' arguments before considering those already on file, I will permit supplemental briefing on the pending motion for summary judgment, as the parties determine is appropriate. If the defendant desires to supplement its pending motion for summary judgment, the deadline for filing the additional briefing is June 30, 2010. If the defendant files supplemental briefing, the plaintiff shall have 14 days to respond to the defendant's briefing. If the plaintiff files a response, the defendant shall have seven days to reply.

¹Docket entry # 42.

Also before the Court is plaintiff's request for an Order to compel production (docket entry 41) . In his second response to defendant's motion for summary judgment plaintiff petitions the Court to compel defendant to produce attendance records for two other employees as well as his own for a three-month period, and telephone call records for an eleven-month period. Federal Rules of Civil Procedure 26 through 36 provide a process for exchanging information. The Court only becomes involved in this process if the parties are dissatisfied with the responses and disclosures provided, and file a timely motion to compel responses. F.R.Civ.P. 37. Requests for Court involvement must be presented prior to the expiration of the period established for information exchange.² In this case, that deadline expired on September 30, 2009.³ Accordingly, to the extent plaintiff requests the Court to compel defendant to produce the documents identified in his Second Response to the summary judgment motion, that motion is ORDERED DENIED.

SIGNED on June 17, 2010.



NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE

²Local Rule CV-16(d).

³Docket entry # 22 (setting the deadline for discovery as Sept. 30, 2009).